

**United States Environmental Protection Agency
Region 5**

IN THE MATTER OF:)	
)	
Republic Powdered Metals, Inc.)	FINDING OF VIOLATION
Beachwood, Ohio)	
)	EPA-5-04-OH-07
)	
Proceedings Pursuant to)	
the Clean Air Act,)	
42 U.S.C. §§ 7401 <u>et seq.</u>)	

FINDING OF VIOLATION

The United States Environmental Protection Agency finds that Republic Powdered Metals, Inc. (Republic) is violating Sections 183 and 111(e) of the Clean Air Act (Act), 42 U.S.C. §§ 7511b and 7411(e). Specifically, Republic is violating the National Volatile Organic Compound Emission Standards for Architectural Coatings at 40 C.F.R. Part 59, Subpart D as follows:

Regulatory Authority

1. Section 183(e) of the Act, 42 U.S.C. § 7511b(e), authorizes U.S. EPA to promulgate regulations establishing requirements regarding the manufacture of certain consumer or commercial products, the use of which may result in the release of volatile organic compounds (VOCs).
2. Pursuant to Section 183(e) of the Act, 42 U.S.C. § 7511b(e), on September 11, 1998, U.S. EPA promulgated National Volatile Organic Compound Emission Standards for Architectural Coatings at 40 C.F.R. Part 59, Subpart D (40 C.F.R. §§ 59.400 through 59.413, and Appendix A).
3. 40 C.F.R. § 59.405(a)(2) requires each manufacturer and importer of any architectural coating subject to Subpart D to provide information regarding thinning of the coating on the label or lid of the container in which they sell or distribute the coating.
4. 40 C.F.R. § 59.405(a)(3) requires each manufacturer and importer of any architectural coating subject to Subpart D to display the VOC content of the coating on the label or

lid of the container in which they sell or distribute the coating. The VOC content must be indicated either as the actual VOC content of the coating, or as the VOC content limit with which the coating is required to comply, and does comply.

5. 40 C.F.R. § 59.401 defines "mastic texture coating" as a coating formulated and recommended to cover holes and to conceal surface irregularities, and is applied in a single coat of at least 10 mils dry film thickness.
6. 40 C.F.R. § 59.401 defines "roof coating" as a coating formulated and recommended for application to exterior roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and reflecting ultraviolet radiation.
7. 40 C.F.R. § 59.402(a) requires each manufacturer and importer of any architectural coating subject to this subpart to ensure that the VOC content of the coating does not exceed the applicable limit in Table 1 of Subpart D.

Factual Background

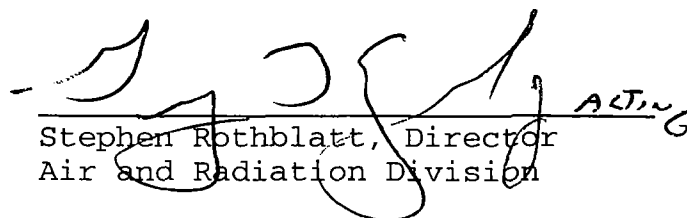
8. Republic owns and operates a coating manufacturing facility at 3735 Green Road, Beachwood, Ohio.
9. Republic manufactures and distributes at least 60 coatings, including, but not limited to: "Goodyear Roof Resaturant #701," "Barrow-kote-Plus," "Goodyear Wet Surface Plastic Cement," "Triple-Duty Aluminum," "Goodyear Aluma-tek," "Goodyear Aluma-tek II," "Goodyear Supernal," "Neoprene Patching Cement," "Solargard Ultra-Acrylic Elastomeric Coating," "High Build Reflective Coating," and "High Build Acrylic Roof Coating." These coatings are recommended for field application to stationary structures and their appurtenances.
10. Since 1947, Republic has manufactured and distributed "architectural coatings," as defined in 40 C.F.R. § 59.401.
11. The labels of "Goodyear Roof Resaturant #701," "Barrow-kote-Plus," "Goodyear Wet Surface Plastic Cement," "Goodyear Aluma-tek," "Goodyear Aluma-tek II," "Goodyear Supernal," "Neoprene Patching Cement," "Solargard Ultra-Acrylic Elastomeric Coating," and "High Build Reflective Coating" do not portray Republic's recommendation on thinning.

12. The labels of "Goodyear Roof Resaturant #701," "Barrow-kote-Plus," "Goodyear Wet Surface Plastic Cement," and "Triple-Duty Aluminum" do not portray VOC content.
13. Republic submitted exceedance fee reports to U.S. EPA on February 14, 2001, February 21, 2002, and February 13, 2003 for the following periods of time: September 13, 1999 through December 31, 2000, January 1, 2001 through December 31, 2001, and January 1, 2002 through December 31, 2002, respectively.
14. In all three exceedance fee reports, Republic calculated the exceedance fee for "Goodyear Suprenamel" based on a 385 g/L VOC content.
15. The "Goodyear Suprenamel" label states the VOC content as 397 g/L.
16. The product data sheet for "Neoprene Patching Cement" states that it is a "sealant recommended for repairs of any area where excessive building movement is likely."
17. "Neoprene Patching Cement" is a "mastic texture coating," as that term is defined at 40 C.F.R. § 59.401.
18. The VOC content limit for mastic texture coatings, as stated in Table 1 of Subpart D, is 300 grams of VOC per liter of coating.
19. The label and product data sheet for "High Build Acrylic Roof Coating" state that it is "a water-based, acrylic, fibered elastomeric roof and wall coating," and is "recommended for rustproofing and weatherproofing of clean metal roofs and concrete/masonry walls and roofs."
20. "High Build Acrylic Roof Coating" is a "roof coating," as that term is defined at 40 C.F.R. § 59.401.
21. The VOC content limit for roof coatings, as stated in Table 1 of Subpart D, is 250 grams of VOC per liter of coating.
22. Republic never paid exceedance fees for "Neoprene Patching Cement" or "High Build Acrylic Roof Coating."

Violations

23. Since September 13, 1999, Republic has violated 40 C.F.R. § 59.405(a)(2) by failing to provide a statement of its recommendation on thinning on its containers of "Goodyear Roof Restaurant #701," "Barrow-kote-Plus," "Goodyear Wet Surface Plastic Cement," "Goodyear Aluma-tek," "Goodyear Aluma-tek II," "Goodyear Suprenamel," "Neoprene Patching Cement," "Solargard Ultra-Acrylic Elastomeric Coating," and "High Build Reflective Coating."
24. Since September 13, 1999, Republic has violated 40 C.F.R. § 59.405(a)(3) by failing to provide the VOC content on its containers of "Goodyear Roof Resaturant #701," "Barrow-kote-Plus," "Goodyear Wet Surface Plastic Cement," and "Triple-Duty Aluminum."
25. Since September 13, 1999, Republic has violated 40 C.F.R. § 59.402(a) by failing to keep the VOC content of "Goodyear Suprenamel" at or below the VOC content limit for nonflat coatings in Table 1 of Subpart D.
26. Since September 13, 1999, Republic has violated 40 C.F.R. § 59.402(a) by failing to keep the VOC content of "Neoprene Patching Cement" at or below the VOC content limit for mastic texture coatings in Table 1 of Subpart D.
27. Since September 13, 1999, Republic has violated 40 C.F.R. § 59.402(a) by failing to keep the VOC content of "High Build Acrylic Roof Coating" at or below the VOC content limit for roof coatings in Table 1 of Subpart D.

3/29/99
Date


Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent a Finding of Violation, No. EPA-5-04-OH-07, by Certified Mail, Return Receipt Requested, to:

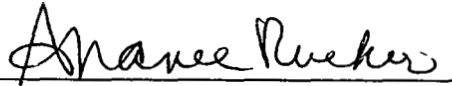
James Sterk, Director of Health, Safety, and Environmental
Republic Powdered Metals, Inc.
3735 Green Road
Beachwood, Ohio 44122

I also certify that I sent copies of the Finding of Violation by first class mail to:

Dennis Bush, APC Supervisor
Northeast District Office
2110 E. Aurora Rd.
Twinsburg, Ohio 44087

Andrew D. Shroads
Field Enforcement Manager
Ohio EPA-Agency 13 (Cuyahoga County)
City of Cleveland-Division of Air Quality
1925 St. Clair Avenue
Cleveland, Ohio 44114

on the 30th day of March, 2004.


Shanee Rucker,
Administrative Program Assistant
AECAS, (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1564 8085